

**S.C.R. 5** - By Brooks: Expressing appreciation to all who contributed to the preservation of the Texas Heroes Monument.

**S.C.R. 6** - By Leedom: Extending congratulations to Bill Melton for receiving the Most Valuable Public Official Award.

**S.R. 28** - By Henderson: Extending congratulations to Benjamin Mitchem of Houston on achieving the rank of Eagle Scout.

**S.R. 29** - By Henderson: Extending congratulations to Andrew Kerr on achieving the rank of Eagle Scout.

**S.R. 30** - By Lucio: Honoring the National Council of La Raza (NCLR) for its distinguished service as an advocate for the Hispanic community.

#### **ADJOURNMENT**

On motion of Senator Brooks, the Senate at 3:04 p.m. adjourned until 9:30 a.m. tomorrow.

#### **FIFTH DAY** (Friday, July 19, 1991)

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Tejada, Truan, Turner, Whitmire, Zaffirini.

Absent-excused: Green, Johnson, Sims.

A quorum was announced present.

Father Chuck Cunniff, St. Austin's Catholic Church, Austin, offered the invocation as follows:

We give You thanks, O most gracious and wonderful God, for it is through Your boundless love that we have our existence. May we use our gifts and talents as proper stewards of the earth and its resources.

Help us to be mindful of those who have less, to listen to those who offer us challenge, and to be of assistance to those in need.

We ask Your blessing upon us this day, almighty God. And for all good gifts we give You thanks. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### **LEAVES OF ABSENCE**

Senator Green was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Sims was granted leave of absence for today on account of important business on motion of Senator Brooks.

## SENATE BILLS AND RESOLUTION ON FIRST READING

**S.B. 69 by Brown** Jurisprudence  
Relating to the creation of a judicial district composed of Fort Bend County.

July 17, 1991

Respectfully,  
/s/Gibson D. (Gib) Lewis  
Speaker  
House of Representatives

**SENATE RESOLUTION 38**

Senator Brooks offered the following resolution:

WHEREAS, It is a genuine pleasure for the Senate of the State of Texas to express best wishes to a most distinguished colleague, Senator Gonzalo Barrientos, on his 50th birthday; and

WHEREAS, Born in Galveston, Texas, on July 20, 1941, he spent his youth in Bastrop; Gonzalo Barrientos has been a resident of Austin since 1960 and attended The University of Texas; and

WHEREAS, Active in civic and community activities since the early 1960s, he served five terms in the Texas House of Representatives before being elected to the Texas Senate in 1984; and

WHEREAS, Throughout his legislative career Senator Barrientos has made the phrase "of the people and for the people" ring true; and

WHEREAS, Gonzalo Barrientos sincerely cares about all individuals, young and old, and their health, education, economic opportunities, and well-being; and

WHEREAS, A passionate advocate on behalf of those in need, Senator Barrientos has labored vigorously to ensure that his fellow citizens have a life of promise and dignity; and

WHEREAS, A hard-working member of the Texas Senate, Senator Barrientos's committee assignments have included Education, Intergovernmental Relations, Health and Human Services, and Finance; he has chaired the Texas Senate Subcommittee on Elder Abuse, the Sunset Advisory Commission, and the Senate Subcommittee on Dropouts; he also has co-chaired the Job Training Partnership Act Monitoring Committee and the Interim Committee on State Employee Benefits and Insurance; and

WHEREAS, Senator Barrientos is legendary for his awareness of the needs of all citizens of his beloved state; and

WHEREAS, Well known for his generosity of spirit and good cheer, Gonzalo Barrientos is one of everybody's favorite people; and

WHEREAS, A vital and worthy envoy on behalf of the citizens of Central Texas, Gonzalo Barrientos is a man of honesty and integrity; and

WHEREAS, Devoted to Emma, his lovely wife of more than three decades, and their five children, he has been blessed with a rich family life; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, 1st Called Session, hereby extend warm wishes for a happy 50th birthday to Senator Gonzalo Barrientos with many happy returns; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Gonzalo Barrientos as an expression of the highest respect, appreciation, and friendship from the Texas Senate.

The resolution was read.

On motion of Senator Harris of Dallas and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brooks, the resolution was adopted by a viva voce vote.

**SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given yesterday by Senator Barrientos.

Senator Barrientos moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

#### **NOMINEES CONFIRMED**

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 28, Nays 0.

Absent-excused: Green, Johnson, Sims.

Members, Texas Appraiser Licensing and Certification Board: DR. GARY D. CONDRA, Lubbock County; MS. LYNETTE T. FORNERETTE, Harris County; ROBERT ALLEN MARTIN, Dallas County; LEROY SINGLETON, SR., Waller County.

#### **GUEST PRESENTED**

The President acknowledged the presence of The Honorable Ann W. Richards, Governor of Texas, seated at the President's Rostrum.

The Senate welcomed Governor Richards.

#### **FLOOR PRIVILEGES GRANTED**

On motion of Senator Parker and by unanimous consent, Floor Privileges were granted to Martha McCabe and Caryn Cosper during deliberations on C.S.S.B. 2.

#### **COMMITTEE SUBSTITUTE SENATE BILL 2 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, all necessary rules and the regular order of business were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 2, Relating to the oversight and regulation of the state's environmental resources, natural resources, and energy resources; providing civil and criminal penalties.

The bill was read second time.

Senator Parker offered the following amendment to the bill:

##### **Floor Amendment No. 1**

Amend C.S.S.B. 2 by amending the following:

Section 2.30 subsections (b-1) and (c) strike "Texas Department of Environment Board" and substitute "Texas Air Control Board".

Section 2.31 subsections (a-1) and (c) strike "Texas Department of Environment Board" and substitute "Texas Air Control Board".

Section 2.32 subsections (d), (d-1), (e) and (h) strike "Texas Department of Environment Board" and substitute "Texas Air Control Board".

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

##### **Floor Amendment No. 2**

Amend C.S.S.B. 2 at the end of SECTION 1.01 of the bill by adding a new Subchapter K to read as follows:

SUBCHAPTER K. AGRICULTURE RESOURCES  
PROTECTION AUTHORITY

Sec. 421.321. AGRICULTURE RESOURCES PROTECTION AUTHORITY. (a) The Agriculture Resources Protection Authority is an agency of state government. The authority is composed of the following nine members:

- (1) the director of the Texas Agricultural Experiment Station;
- (2) the dean of the College of Agricultural Sciences of Texas Tech University;
- (3) the dean of The University of Texas School of Public Health at Houston;
- (4) the director of the environmental epidemiology program of the Texas Department of Health;
- (5) the executive director of the department;
- (6) the director of the Institute for International Agribusiness Studies of Prairie View A&M University;
- (7) one person appointed by the governor to represent the interests of consumers;
- (8) a producer of agricultural products appointed by the governor; and
- (9) the commissioner of agriculture.

(b) A person appointed by the governor, with the advice and consent of the Senate, under Subdivision (7) or (8) of Subsection (a) of this section serves a two-year term ending on February 1 of each odd-numbered year. A vacancy in one of those positions shall be filled by appointment by the governor for the unexpired term.

(c) The executive director or the director's designee is the presiding officer of the authority.

(d) The authority shall meet quarterly and at the call of the presiding officer or a majority of the members. To take an action, the authority must approve the action by a concurring vote of a majority of the total membership of the authority.

(e) A member may not receive compensation for service as a member of the authority. A member is entitled to reimbursement for actual and necessary expenses incurred in the performance of the functions of the authority, subject to any limitations on reimbursement provided by the General Appropriations Act.

(f) The delegation of functions under this section is designed to avoid overlapping responsibilities, to provide a means for all involved agencies to participate in the regulation of pesticides, and to clarify various areas of responsibility.

(g) The authority is the coordinating body for the policies and programs of management, regulation, and control of pesticides conducted by the department, the State Soil and Water Conservation Board, the Texas Agricultural Extension Service, the Texas Department of Health, the Texas Department of Agriculture, and the Texas Structural Pest Control Board. The authority may:

(1) adopt any rule relating to pesticides, including a rule that amends or repeals an existing rule, except that the authority may not:

(A) adopt, amend, or repeal a rule under Chapter 125, Agriculture Code;

(B) repeal a rule that was adopted by an agency for which the authority is the coordinating body and that was in effect on May 1, 1989; or

(C) amend any rule in effect on May 1, 1989, that would make the rule less protective of the public health, safety, or welfare;

(2) review and approve or disapprove any rule relating to pesticides that is proposed by an agency for which the authority is the coordinating body, except a rule under Chapter 125, Agriculture Code;

(3) cooperate with and advise the department, the State Soil and Water Conservation Board, the Texas Agricultural Extension Service, the Texas Department of Health, the Texas Department of Agriculture, the Texas Structural Pest Control Board, and any other state agency that may be concerned with the regulation of pesticides and notify those agencies of any rule the authority intends to adopt;

(4) collect, analyze, and disseminate information necessary for the effective operation of all existing or contemplated programs regulating pesticides;

(5) provide professional advice to private agencies and citizens of this state on matters relating to pesticides in cooperation with other state agencies, with professional groups, and with either state or private educational institutions;

(6) accept gifts, devises, and bequests and, with the approval of the governor, comply with the terms and conditions of any grant to accomplish any of the purposes of the authority;

(7) inform and advise the governor on matters involving pesticides and prepare and recommend to the governor and to the legislature any legislation the authority considers proper for the management and control of pesticides;

(8) make annual reports to the governor and the appropriate legislative oversight committees;

(9) exempt any federal or state agency from any regulatory provision if the authority determines that emergency conditions exist that require the exemption; and

(10) notwithstanding any conflicting or inconsistent provision in this code, hear and determine all appeals from orders entered, by an agency for which the authority is the coordinating body, under Chapter 75, 76, or 125, Agriculture Code.

(h) An agency for which the authority is the coordinating body may not adopt a rule disapproved by the authority under Subsection (g)(2) of this section.

(i) The executive director shall:

(1) as necessary, employ personnel as the duties of the authority may require and to the extent of legislative appropriations to the authority;

(2) keep an accurate and complete record of all authority meetings and hearings of the authority and maintain legal custody of all books, papers, documents, and other records of the authority;

(3) administer Chapters 75, 76, and 125, Agriculture Code, and the rules adopted by the authority; and

(4) assign, reassign, or delegate the administrative and enforcement functions assigned to the executive director by this subsection or by rules or policies established under this subsection to one or more of the divisions or other units within the department or to one or more employees of the department.

BIVINS  
PARKER

The amendment was read and was adopted by a viva voce vote.

Senator Parker offered the following amendment to the bill:

### Floor Amendment No. 3

Amend C.S.S.B. 2 by deleting Article 3 and adding the following:

#### ARTICLE 3.

#### PURCHASE OF STATE-OWNED NATURAL GAS BY STATE AGENCIES

SECTION 3.01. Chapter 31, Natural Resources Code, is amended by adding Subchapter H to read as follows:

## SUBCHAPTER H. USE OF STATE ENERGY RESOURCES

Sec. 31.401. NATURAL GAS PURCHASE CONTRACT. (a) The land office shall review and must approve any contract entered into by a state agency for the acquisition of an annual average of 100 Mcf per day or more of natural gas used in the production of energy.

(b) Before approving a contract described by Subsection (a) of this section, the land office shall ensure that the agency, to meet its energy requirements, is using, to the greatest extent practical, natural gas produced from land leased from:

(1) the school land board;

(2) a board for lease other than the Board for Lease of University Lands; or

(3) the surface owner of Relinquishment Act land.

(c) In this section, "state agency" has the meaning assigned by Section 2, Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes).

Sec. 31.402. RULES. The commissioner shall adopt any rules necessary to carry out this subchapter, including rules regarding review and approval of contracts under Section 31.401 of this code.

The amendment was read and was adopted by a viva voce vote.

Senator Rosson offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend C.S.S.B. 2 as follows:

(1) In Article 6 of the bill, strike the sections of the bill that amend Chapter 402, Health and Safety Code, and the section of the bill that imposes a tax on an electric utility that operates a nuclear reactor.

(2) Add a new article to the bill, appropriately numbered, to read as follows:

ARTICLE \_\_\_\_\_. FINANCING FOR THE TEXAS LOW-LEVEL  
RADIOACTIVE  
WASTE DISPOSAL AUTHORITY

SECTION \_\_\_\_\_

Section 402.273(a), Health and Safety Code, as amended by H.B. 1757, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) Waste disposal fees adopted by the board must be sufficient to:

(1) allow the authority to recover operating and maintenance costs;

(2) provide an amount necessary to meet future costs of decommissioning, closing, and postclosure maintenance and surveillance of the disposal site;

(3) provide an amount to compensate for impacts associated with the disposal site;

(4) provide an amount sufficient to fund, in whole or in part, a rangeland and wildlife management plan;

(5) provide an amount necessary to pay licensing fees and to provide security required by the department under law and department rules; [and]

(6) provide an amount necessary to fund debt service and necessary fees and charges, including insurance premiums and similar costs, associated with the issuance and payment of bonds under Subchapter K; and

(7) provide an amount adequate to pay costs of construction of or major repair of or improvement to a facility that begins after the date on which the disposal site begins operations.

SECTION \_\_\_\_\_. Subchapter J, Chapter 402, Health and Safety Code, is amended by adding Section 402.2741 to read as follows:

Sec. 402.2741. TEMPORARY FEES. (a) A generator of low-level radioactive waste in the state, other than a nuclear power reactor for which an operating license has been issued by the Nuclear Regulatory Commission, shall pay to the authority a fee of \$4 per cubic foot of low-level radioactive waste produced by the generator in the state, or a greater amount established by the board.

(b) A nuclear power reactor in the state for which an operating license has been issued by the Nuclear Regulatory Commission shall pay to the authority on January 1 of each year a fee of \$100,000 or a greater amount established by the board. A reactor for which an operating license is issued after January 1 shall pay in the year in which the operating license is issued the fee imposed by this subsection prorated for the number of days in the year during which the reactor will be licensed. The prorated fee is due and payable 30 days after the operating license is issued.

(c) In addition to the annual fee imposed by Subsection (b), each nuclear power reactor in the state for which an operating license has been issued by the Nuclear Regulatory Commission shall pay to the authority, in equal quarterly installments, an annual fee of \$500,000, or a greater amount established by the board, for state fiscal years 1992, 1993, and 1994. A reactor for which an operating license is issued after September 1 of 1992, 1993, or 1994 shall pay for the quarter in which the operating license is issued a prorated quarterly installment and full quarterly installments thereafter.

(d) Fees imposed by this section are in addition to fees imposed by Sections 402.272 and 402.274.

(e) Fees collected under this section shall be deposited in the state treasury to the credit of the low-level waste fund.

(f) The board shall adopt rules necessary to collect and administer the fees imposed by this section.

(g) Subsections (a) and (b) expire on the date, as determined by board rule, on which the disposal site begins operations. Subsection (c) expires September 1, 1995. Subsections (d)-(f) and this subsection expire on the date, as determined by board rule, on which the disposal begins operations, or September 1, 1995, whichever is later.

SECTION \_\_\_\_\_. Section 402.275(d), Health and Safety Code, as amended by Chapter 14 and H.B. 1757, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(d) Except as provided by Subsection (g), money in the low-level waste fund may be used to pay:

- (1) operating and maintenance costs of the authority;
- (2) future costs of decommissioning, closing, and postclosure maintenance and surveillance of the disposal site;
- (3) licensing fees and to provide security required by the department;
- (4) money judgments rendered against the authority that are directed by a court of this state to be paid from this fund;
- (5) expenses associated with implementation of the rangeland and wildlife management plan;
- (6) impact assistance funds for affected political subdivisions;
- (7) debt service and necessary fees and charges, including insurance premiums and similar costs, associated with the issuance and payment of bonds under Subchapter K;

(8) costs of construction of or major repair of or improvement to a facility that begins after the date on which the disposal site begins operations; and

(9) [(8)] expenses for any other purpose under this chapter.

SECTION \_\_\_\_\_. Section 402.275(e), Health and Safety Code, as amended by H.B. 1757, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:



(e) If the authority does not issue bonds under Subchapter K, or if the revenue generated by bonds issued under Subchapter K is insufficient to reimburse the general revenue fund for expenses incurred by the state before the first day of operation of the disposal site, money in the low-level waste fund may be used to reimburse the general revenue fund for expenses incurred by the state before the first day of operation of the disposal site and for any other maintenance and operating expenses paid by appropriation from the general revenue fund.

SECTION \_\_\_\_\_. Section 402.291, Health and Safety Code, as added by H.B. 1757, Acts of the 72nd Legislature, Regular Session, 1991, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The bonds must contain on their face a statement that:

(1) the state, the authority, or a public entity is not obligated to pay the principal of or interest on the bonds; and

(2) the faith and credit and the taxing power of the state or of a public entity are [is] not pledged to the payment of the principal of or interest on the bonds.

(d) Except as provided by Section 402.295, the board may not issue bonds under this subchapter after the date, as determined by board rule, on which the disposal site begins operations.

SECTION \_\_\_\_\_. Not later than January 1, 1992, the board of directors of the Texas Low-Level Radioactive Waste Disposal Authority shall adopt rules necessary to implement Section 402.2741, Health and Safety Code, as added by this article.

SECTION \_\_\_\_\_. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 1991.

(b) The fees imposed by Sections 402.2741(a) and (b), Health and Safety Code, as added by this article, take effect January 1, 1992.

SECTION \_\_\_\_\_. If this Act does not receive the necessary number of votes required by Article III, Section 39, of the Texas Constitution to become effective before the 90th day after the adjournment of the 72nd Legislature, 1st Called Session, then:

(1) the preceding two sections of this article have no effect and this article takes effect December 1, 1991;

(2) the fees imposed by Sections 402.2741(a) and (b), Health and Safety Code, as added by this article, take effect April 1, 1992, and the fee imposed by Section 402.2741(b) shall be prorated for the calendar year 1992; and

(3) not later than April 1, 1992, the board of directors of the Texas Low-Level Radioactive Waste Disposal Authority shall adopt rules necessary to implement Section 402.2741, Health and Safety Code, as added by this article.

The amendment was read.

Senator Brooks moved to table the amendment.

The motion to table was lost by the following vote: Yeas 13, Nays 14.

Yeas: Armbrister, Bivins, Brooks, Brown, Haley, Harris of Dallas, Henderson, Krier, Lucio, Sibley, Tejada, Turner, Zaffirini.

Nays: Barrientos, Carriker, Dickson, Ellis, Glasgow, Harris of Tarrant, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Truan, Whitmire.

Absent: Leedom.

Absent-excused: Green, Johnson, Sims.

On motion of Senator Rosson and by unanimous consent, the amendment was withdrawn.

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend C.S.S.B. 2, Article 1, Subchapter E, by striking all of Sec. 421.121. and inserting the following in lieu thereof:

Sec. 421.121. APPOINTMENT OF EXECUTIVE DIRECTOR. The board shall appoint an executive director, who serves at the will of the board.

The amendment was read.

On motion of Senator Parker, the amendment was tabled by the following vote: Yeas 24, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Tarrant, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Tejeda, Truan, Turner, Zaffirini.

Nays: Brown, Harris of Dallas, Henderson, Whitmire.

Absent-excused: Green, Johnson, Sims.

Senator Truan offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend C.S.S.B. 2 by adding a new Article 4 as follows:

**ARTICLE 4. BEACH CLEANUP FUNDS**

**SECTION 4.01.** Section 61.067, Natural Resources Code, as amended by **H.B. 1135**, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) The land office shall expand the Adopt-A-Beach program to the greatest extent feasible to enhance the performance of its duties under this subchapter.

(d) The land office may use any cash, gifts, grants, donations, or in-kind contributions that it receives from a public or private entity through the administration of the Adopt-A-Beach program to assist a municipality, a county, or the department in performing any duty imposed on the city, county, or department by this subchapter.

(e) The land office may adopt rules reasonably necessary to perform its duties under this subchapter.

**SECTION 4.02.** Subsection (a), Section 352.002, Tax Code, as amended by **H.B. 1414** and **S.B. 992**, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping:

(1) a county that has a population of more than two million;

(2) a county that has a population of 90,000 or more, borders [on] the Republic of Mexico, and does not have three or more cities that each have a population of more than 17,500;

(3) a county in which there is no municipality;

(4) a county in which there is located an Indian reservation under the jurisdiction of the United States government;

(5) a county that has a population of 17,500 or less in which there is located a horse racing track licensed as a class 1 or class 2 racetrack under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); [and]

(6) a county that borders the Gulf of Mexico; and

(7) a county that has a population of less than 5,000, that borders [on] the Republic of Mexico, and in which there is located a major observatory.

SECTION 4.03. Subsection (d), Section 352.002, Tax Code, is amended to read as follows:

(d) The tax imposed by a county authorized by Subsection (a)(4) or (6) to impose the tax does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

SECTION 4.04. Subsection (a), Section 352.1031, Tax Code, is amended to read as follows:

(a) Except as otherwise explicitly provided, revenue [Revenue] derived from the tax authorized by this chapter may be used only for the purposes stated in Section 351.101.

SECTION 4.05. Subchapter B, Chapter 352, Tax Code, is amended by adding Section 352.1033 to read as follows:

Sec. 352.1033. USE OF REVENUE; COUNTIES BORDERING THE GULF OF MEXICO. (a) The revenue from a tax imposed under this chapter by a county that borders the Gulf of Mexico authorized to impose the tax by Section 352.002(a)(6) may be used only to:

(1) clean public beaches;

(2) acquire, furnish, or maintain facilities, including parks, that enhance public access to beaches;

(3) provide and maintain public restrooms on or adjacent to beaches or beach access facilities; and

(4) provide and maintain litter containers on or adjacent to beaches or beach access facilities.

The amendment was read and was adopted by a viva voce vote.

Senator Harris of Dallas offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend C.S.S.B. 2 by striking Sec. 421.152 on page 23, lines 4 through 14 (Committee Amendment No. 14).

The amendment was read.

On motion of Senator Parker, the amendment was tabled by the following vote: Yeas 18, Nays 10.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Haley, Lyon, Moncrief, Mcntford, Parker, Ratliff, Rosson, Tejeda, Truan, Turner, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Lucio, Sibley, Whitmire.

Absent-excused: Green, Johnson, Sims.

Senator Krier offered the following amendment to the bill:

**Floor Amendment No. 8**

Amend Section 421.152 of C.S.S.B. 2 on page 23, line 9, by adding a new subsection as follows:

(b) The chief administrative law judge must be a resident of this state who has been licensed to practice law in this state for at least eight years at the time of the appointment and who has demonstrated experience, either as an attorney or as a

member of the judiciary, or both, in the practice of administrative law or in the trial of contested matters.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 9**

Amend C.S.S.B. 2 as follows:

Amend Committee Amendment No. 16 by striking lines 26 and 27 on page 7 and lines 1 through 6 on page 8, and the words “Texas” and “of Health” on line 14 of page 8.

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 10**

Amend C.S.S.B. 2 on page 6, line 5, by adding the following section:

(5) is registered with the Secretary of State as a lobbyist in behalf of any organization that has appeared before the board or any state agency in a permit hearing during the two years before appointment.

The amendment was read and was adopted by a viva voce vote.

Senator Krier offered the following amendment to the bill:

**Floor Amendment No. 11**

Amend Committee Rider No. 13 to C.S.S.B. 2 by adding subsection (b) as follows:

(b) The public counsel must be a resident of this state who is licensed to practice law in this state, has demonstrated a strong commitment to safeguard the environment, and possesses the knowledge and experience to practice effectively in proceedings before the department, board, and office of hearings.

KRIER  
RATLIFF

The amendment was read and was adopted by a viva voce vote.

Senator Tejada offered the following amendment to the bill:

**Floor Amendment No. 12**

Amend C.S.S.B. 2 as follows:

Amend SECTION 2.12, Section 382.056, Health and Safety Code, by amending subsections (a) and (d) and adding subsections (e) and (f) to read as follows:

(a) An applicant for a [construction] permit [or special permit] under Section 382.0518 or 382.054 [382.051] or a permit renewal review under Section 382.055 shall publish notice of intent to obtain the permit or permit review. The applicant shall publish the notice at least once in a newspaper of general circulation in the municipality [county] in which the facility is located or is proposed to be located or in the municipality nearest to the location or proposed location of the facility. The board by rule shall prescribe when notice must be published and may require publication of additional notice.

(d) The board shall require an applicant for a permit under Section 382.0518 to mail notice of intent to obtain the permit or permit review, including the information listed in subsection (b), to each of the following places or individuals:

(1) each residential or business address and each owner of real property within 500 feet of the location or proposed location of the facility listed in the real property records of the appraisal district in which the facility is located or proposed to be located as of the date the board determines the permit application is administratively complete.

(2) Each church which owns real property within one-half mile of the location or proposed location of the facility listed in the real property records of the appraisal district in which the facility is located or proposed to be located as of the date the board determines the permit application is administratively complete.

(3) The county, the municipality and the school district in which the facility is located or proposed to be located.

(e) The notice required in subsection (d) must be sent by mail and must be deposited with the United States postal service not more than 30 days after the date that the application is administratively complete. The application must certify to the board that the mailings were deposited as required by this subsection. Acceptance of the certification creates a rebuttable presumption that the applicant has complied with this subsection.

(f) Except as provided by Section 382.0561, the [The] board or its delegate shall hold a public hearing on the permit application or permit review application before granting the permit or renewal [continuance] if a person who may be affected by the emissions, or a member of the legislature from the general area in which the facility or proposed facility is located requests a hearing within the period set by board rule. The board is not required to hold a hearing if the basis of the request by a person who may be affected is determined to be unreasonable.

The amendment was read and was adopted by a viva voce vote.

Senator Parker offered the following amendment to the bill:

**Floor Amendment No. 13**

Amend C.S.S.B. 2 on page \_\_\_\_ as follows:

(1) Add a new Section 1.60 to read as follows:

SECTION 1.60. Subsection (a), Section 401.011, Health and Safety Code, is amended to read as follows:

(a) The Texas Department of the Environment [~~Health~~] is the Texas Radiation Control Agency.

(2) Delete Section 1.61.

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 14**

Amend C.S.S.B. 2 as follows:

Amend Chapter 384, Subchapter A, Sec. 384.003 as added by Committee Rider No. 16 by deleting subsection (3).

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2 ON THIRD READING**

Senator Parker moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 2 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Green, Johnson, Sims.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**MEMORIAL RESOLUTIONS**

**S.R. 31** - By Montford, Dickson: In memory of C. L. Kay of Abilene.

**S.R. 33** - By Lucio: In memory of distinguished Texas newspaperman James V. Mathis.

**CONGRATULATORY RESOLUTIONS**

**S.R. 32** - By Lucio: Commending Ruben S. Garcia of Brownsville for his meritorious service to his community and the State of Texas.

**S.R. 34** - By Brown: Extending congratulations to the Clear Creek Wildcats baseball team on their recent state championship.

**S.R. 35** - By Barrientos: Recognizing Project Excel for providing training and technical assistance in reducing the number of dropouts at Kimball High School, Dallas.

**S.R. 36** - By Ratliff: Extending congratulations to Whitney Ramsay who was crowned Miss Mount Vernon 1991 at the 23rd Annual Miss Mount Vernon Scholarship Pageant.

**S.R. 37** - By Ratliff: Extending congratulations to Karen Barker who was awarded the title of Young Junior Miss Mount Vernon.

**ADJOURNMENT**

On motion of Senator Brooks, the Senate at 11:53 a.m. adjourned until 11:00 a.m. Monday, July 22, 1991.

**SIXTH DAY  
(Monday, July 22, 1991)**

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffrini.

Absent-excused: Brown.

A quorum was announced present.